

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**STATE OF TENNESSEE V. DONNIE JOHNSON**

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No. M1987-00072-SC-DPE-DD - Filed: June 20, 2006

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**ORDER**

On August 10, 2004, Donnie Johnson having completed the standard three-tier appeals process, this Court ordered that Johnson's sentence of death be executed on November 16, 2004. On November 9, 2004, after Johnson filed a motion for relief pursuant Fed. R. Civ. P. 60(b) in the United States District Court for the Western District of Tennessee, the federal district court issued an order staying Johnson's execution. On November 30, 2005, the federal district court denied relief and dismissed the motion. On May 10, 2006, the federal district court denied Johnson's motion to alter or amend its judgment under Fed. R. Civ. P. 59(e). On May 5, 2006, the State of Tennessee filed in this Court a Motion to Reset Date of Execution, in which it stated that the actions of the federal district court in denying relief to Johnson dissolved the previously issued stay. On May 30, 2006, Johnson filed his Response to Motion to Reset Execution Date. Johnson contended that an execution date should not be re-set because an appeal from the federal district court's denial of relief was pending in the United States Court of Appeals for the Sixth Circuit. Johnson also asserted that an execution date should not be set because he had filed a petition in the Criminal Court for Tennessee's 30<sup>th</sup> Judicial District requesting post-conviction forensic DNA analysis under Tenn. Code Ann. § 40-30-301 et seq.

Having considered the Motion to Reset Execution Date and the Response, this Court finds that Johnson has presented no legal basis for denying the State's Motion to Reset Execution Date. Therefore, the State's motion is GRANTED. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the twenty-fifth day of October, 2006, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Donnie Johnson shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM